

IN THE DRAWING(S):

The attached sheets of drawings includes changes to Figures 1, 3, and 4. These sheets replaces the original sheet showing Figures 1, 3, and 4.

REMARKS

This supplemental amendment has hereby been re-submitted in response to the Office Action dated October 16, 2007, in response to the original response being non-compliant and deemed by the Examiner as “not fully responsive” due to improper amendments to the specification and claims not in compliance with 37 C.F.R. 1.121(b)(2)(ii) and 37 C.F.R. 1.121(c)(2), respectively. This amendment hereby relieves all outstanding issues and is hereby re-submitted.

A Supplemental Response including a supplemental oath/declaration correcting the filing date for the PCT application to read March 12, 2003 was submitted on July 30, 2007.

The following remarks were previously submitted with the response filed on June 22, 2007:

The abstract was objected to because of the improper use of the word “said.” As noted above, a corrected abstract is hereby submitted with this amendment.

The specification was objected to because of informalities. The specification has been amended to correct said informalities without the addition of new matter.

The drawings (Figures 1, 3, and 4) were objected to for informalities and inaccuracies. Corrected drawings for Figures 1, 3, and 4 in compliance with 37 CFR 1.121 (d) are hereby submitted with this amendment.

Applicant confirms the election of the claims of Group I, drawn to a tool device, for original claims 1-5, 11, and 12. Claims 1-5, 11, and 12 were also objected to because of improper language. Claims 1-5, 11, and 12 have been cancelled. Claims 13-19 are newly added, and recite similar features as provided in original claims 1-5, 11, and 12.

Claims 6-10 have been amended for clarification purposes only without the addition of new matter. Claims 6-10 are also withdrawn from consideration. Applicant reserves the right to file a Divisional application directed to the non-elected claims at a later date, if so desired.

After entry of this Amendment, Claims 6-10 and 13-19 are pending in the patent application, of which claims 6-10 are withdrawn from examination. Reconsideration and allowance of the present patent application based on the foregoing amendments and following remarks are respectfully requested.

REJECTIONS UNDER 35 U.S.C. §112

Claims 1-5 were rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. Particularly, the Examiner notes on page 6 of the Office Action that the curved supporting surfaces are not clearly disclosed, and, thus, it is unclear as to exactly what structure is being claimed.

Claims 1-5 have been cancelled. Claims 13-17 are newly added to recite similar features as disclosed in original claims 1-5. Claims 13-17 clearly define the “supporting surfaces” and thus moot the rejection of claims 1-5 under 35 U.S.C. §112, first paragraph.

Claims 11 and 12 were rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Particularly, the Examiner notes on page 7 of the Office Action that the “material thickness” is vague and indefinite.

Claims 11 and 12 have been cancelled. Claims 18 and 19 are newly added and recite similar elements to original claims 11 and 12. Claims 18 and 19 recite corrected antecedent basis and description for “the material thickness”, thereby mooting the rejection of claims 11-12 under 35 U.S.C. §112, second paragraph.

REJECTIONS UNDER 35 U.S.C. §102

Claims 11 and 12 were rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent no. 4,470,330 to Lindell (hereinafter “Lindell”). The rejection is respectfully traversed.

Claims 11 and 12 were cancelled. Newly added claims 18 and 19 disclose similar features as recited in claims 11 and 12, and are therefore discussed with respect to this rejection.

Independent claim 18 positively recites a tool housing comprising, *inter alia*, a solid base element with a horizontally extending recess for receiving said fixed crosscutting tool; said recess having a supporting surface with support material for withstanding impact acting in a transverse direction on said fixed crosscutting tool, and wherein, in the direction of impact, a material thickness of said solid base element measured from said supporting surface to an upper end surface of said base element is greater than a transverse material thickness of said base element. Applicant respectfully submits that Lindell does not teach each and every element of claims 18 and 19, including the features noted above.

Lindell discloses a tooling assembly with a mechanical impact press including a pair of die blocks 26, 27 for cutting rods, bars, etc. The die blocks 26, 27 are supported by housing 25. A reciprocating cam 20 is also guided in the housing 25 between a first and a second position, such that bores that are out of alignment may be restored.

However, Lindell fails to disclose, teach, or suggest “a recess having a supporting surface with support material for withstanding impact acting in a transverse direction on said fixed crosscutting tool.” In fact, none of the cited portions of Lindell discuss a recess including support material for withstanding impact in a transverse direction. As shown by element 219 in Figure 5 of the present application, the recess 219 is provided between the base element 21 and the fixed crosscutting tool 50. Rather, Lindell illustrates a space 56 between the damper 53, 55 and the die block 26. (*See, e.g.*, Figures 2 and 3 and column 3, lines 50-53 of Lindell). Lindell does not disclose or anticipate a recess as provided in claim 18.

Furthermore, Lindell fails to disclose, teach, or suggest a “material thickness of said solid base element measured from said supporting surface to an upper end surface of said base element is greater than a transverse material thickness of said base element.” The Examiner merely points to the elements as illustrated in Figures 2 and 3. However, these cited portions of Lindell do not discuss the thickness of the base element, nor do they anticipate the measurement of the base element as recited in claim 18.

There is no disclosure or teaching in Lindell that would have suggested the use of a recess having a supporting surface with supporting material or a material thickness as disclosed in claim 18. Further, there is no motivation to modify any portions of Lindell to teach or suggest applicant's claimed invention.

Thus, reconsideration and withdrawal of the §102(b) rejection, and allowance of claim 18 is respectfully requested. Claim 19 is patentable over the cited portions of Lindell at least by virtue of its dependency from claim 18, and for the additional features recited therein.

REJECTIONS UNDER 35 U.S.C. §103

Claims 1-5 were rejected under 35 U.S.C. 103(a) as being unpatentable over Lindell. The rejection is respectfully traversed.

Claims 1-5 were cancelled. However, newly added claims 13-17 are provided and disclose similar features as recited in claims 1-5, and thus are discussed with respect to this rejection.

Independent claim 13 recites a tool housing comprising, *inter alia*, the tool housing has at least two supporting surfaces for positioning said movable crosscutting tool, said supporting surfaces being curved and having a same radius, and wherein a recess is constructed and arranged between said curved supporting surfaces to provide space for movement of said striking piston. Applicant respectfully submits that Lindell fails to disclose, teach, or suggest at least these features.

As noted by the Examiner beginning on page 9 of the Office Action, “Lindell lacks the tool housing having at least two curved supporting surfaces for positioning of the moveable crosscutting tool, which supporting surfaces have the same radius, and in that between the supporting surfaces is the recess.” The Examiner also notes that Lindell “lacks the cylindrical recess in the housing having the same centre line and the same radius as the supporting surfaces.” Thus, as conceded, Lindell fails to disclose or anticipate the curved supporting surfaces” and recess as disclosed in at least claim 13.

Applicant respectfully submits that the use a curved configuration for such surfaces, as suggested by the Examiner on page 10 of the Office Action, would not have been obvious. Applicant respectfully directs the Examiner to the specification, wherein it is clearly noted that the use of curved surfaces as recited in claim 13 increases precision in terms of position, alignment, and accuracy, for example. (*See, e.g.*, page 2, lines 4-9 and page 6, line 34-page 7, line 15). Thus, the Examiner’s statement that such “a curved configuration solves any stated problem or is for any particular purpose” is incorrect.

The Examiner appears to have associated Figure 1 with the “recess for a striking piston.” Applicant respectfully requests that the Examiner show where in Figure 1 a recess is provided. Furthermore, Applicant requests that the Examiner illustrate the “supporting surfaces” of Lindell. As shown in Figure 4 of the present application, curved supporting surfaces 218 are provided in the tool housing 20. Furthermore, a recess 217 is provided between the curved supporting surfaces 218 for movement of the striking piston 11 therein. Applicant respectfully asserts that Lindell does not provide or suggest curved supporting surfaces or a recess.

For at least the above-identified reasons, Applicant submits that Lindell fails to disclose, teach, or suggest the features of claim 13. Accordingly, withdrawal of the rejection of claim 13 under 35 U.S.C. §103(a) is respectfully requested.

Claims 14-17 is patentable over the cited portions of Lindell at least by virtue of their dependency from claim 13, and for the additional features recited therein.

All matters having been addressed and in view of the foregoing, Applicant respectfully requests reconsideration of this application, and the immediate allowance of all pending claims.

DAHLBERG -- 10/510,124
Attorney Docket: 522208-0000024

Please charge any fees associated with the submission of this paper to Deposit Account Number 033975. The Commissioner for Patents is also authorized to credit any over payments to the above-referenced Deposit Account.

Respectfully submitted,

PILLSBURY WINTHROP SHAW PITTMAN LLP

A handwritten signature in black ink, appearing to read "Jaclyn A. Schade", written in a cursive style.

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Attachments: Replacement Drawings (3)